

The Honorable Tiffany Cartwright

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

MOZZY CLARK,

Plaintiff,

v.

STATE OF WASHINGTON,
DEPARTMENT OF
CORRECTIONS; LT. DENNIS SIMONS;
SGT. CARRIE ANN WILLIAMS A/K/A
CARRIE ANN GUAJARDO; HEIDI
WHITTEMORE; OFFICER THERESA
AYOTTE; OFFICER MICHAEL BROOKS;
and DOES 1-10.

Defendants.

NO. 3:24-cv-06058

DEFENDANT GREGORY BROOKS'
ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S
[CORRECTED] SECOND AMENDED
COMPLAINT FOR DAMAGES

AND JURY DEMAND

Defendant, Gregory Brooks, in answer to Plaintiff's complaint, admits, denies and alleges as follows:

INTRODUCTION

1. Defendant is without sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 1, and therefore DENIES the allegations.

2. Answering paragraph 2, the allegations are not directed at Defendant, therefore no response is required of this answering Defendant. To the extent paragraph 2 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

3. Answering paragraph 3, the allegations are not directed at Defendant, therefore no response is required of this answering Defendant. To the extent paragraph 3 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

4. Answering paragraph 4, the allegations are not directed at Defendant, therefore no response is required of this answering Defendant. To the extent paragraph 4 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

5. Defendant is without sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 5, and therefore DENIES the allegations.

6. Answering paragraph 6, the allegations are not directed at Defendant, therefore no response is required of this answering Defendant. To the extent paragraph 6 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

7. Answering paragraph 7, the allegations are not directed at Defendant, therefore no response is required of this answering Defendant. To the extent paragraph 7 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

JURISDICTION AND VENUE

8. Paragraph 8 sets forth legal conclusions for which no response is required. To the extent paragraph 8 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

9. Paragraph 9 sets forth legal conclusions for which no response is required. To the extent paragraph 9 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

PARTIES

10. Defendant ADMITS Plaintiff is a formerly incarcerated person who was housed at Washington Corrections Center for Women (“WCCW”). Defendant is without sufficient information to form a belief as to the truth or falsity of the remaining allegations in paragraph 10, and therefore DENIES the allegations.

1 11. Answering paragraph 11, the allegations are not directed at Defendant, therefore
2 no response is required of this answering Defendant. To the extent paragraph 11 may be
3 construed as making factual allegations as to this Defendant, the allegations are DENIED.

4 12. Answering paragraph 12, the allegations are not directed at Defendant, therefore
5 no response is required of this answering Defendant. To the extent paragraph 12 may be
6 construed as making factual allegations as to this Defendant, the allegations are DENIED.

7 13. Answering paragraph 13, the allegations are not directed at Defendant, therefore
8 no response is required of this answering Defendant. To the extent paragraph 13 may be
9 construed as making factual allegations as to this Defendant, the allegations are DENIED.

10 14. Answering paragraph 14, the allegations are not directed at Defendant, therefore
11 no response is required of this answering Defendant. To the extent paragraph 14 may be
12 construed as making factual allegations as to this Defendant, the allegations are DENIED.

13 15. Answering paragraph 15, the allegations are not directed at Defendant, therefore
14 no response is required of this answering Defendant. To the extent paragraph 15 may be
15 construed as making factual allegations as to this Defendant, the allegations are DENIED.

16 16. Answering paragraph 16, Defendant ADMITS he is employed as a corrections
17 officer at WCCW. To the extent not expressly admitted, the allegations in paragraph 16 are
18 DENIED.

19 17. Answering paragraph 17, the allegations are not directed at Defendant, therefore
20 no response is required of this answering Defendant. Defendant objects to Plaintiff's purported
21 definition of "policymaker/supervisory defendants" as setting forth a legal conclusion and aver
22 that no answer is required of this Defendant thereto. To the extent paragraph 17 may be construed
23 as making factual allegations as to this Defendant, the allegations are DENIED.

24 18. Answering paragraph 18, the allegations are not directed at Defendant, therefore
25 no response is required of this answering Defendant. Defendant further answers that this
26 paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph

1 18 may be construed as making factual allegations as to this Defendant, the allegations are
2 DENIED.

3 19. Answering paragraph 19, the allegations are not directed at Defendant, therefore
4 no response is required of this answering Defendant. To the extent paragraph 19 may be
5 construed as making factual allegations as to this Defendant, the allegations are DENIED.

6 20. Answering paragraph 20, the allegations are not directed at Defendant, therefore
7 no response is required of this answering Defendant. To the extent paragraph 20 may be
8 construed as making factual allegations as to this Defendant, the allegations are DENIED.

9 21. Defendant DENIES the allegations in paragraph 21.

10 22. Answering paragraph 22, the allegations are not directed at Defendant, therefore
11 no response is required of this answering Defendant. Defendant objects to Plaintiff's purported
12 definition of "Defendants" on grounds that it is vague and sets forth legal conclusions;
13 notwithstanding the foregoing objections, to the extent paragraph 22 may be construed as making
14 factual allegations as to this Defendant, the allegations are DENIED.

15 23. Answering paragraph 23, the allegations are not directed at Defendant, therefore
16 no response is required of this answering Defendant. To the extent paragraph 23 may be
17 construed as making factual allegations as to this Defendant, the allegations are DENIED.

18 24. Paragraph 24 sets forth legal conclusions for which no response is required. To
19 the extent paragraph 24 may be construed as making factual allegations as to this Defendant, is
20 without sufficient information to form a belief as to the truth or falsity of the allegations in
21 paragraph 24, and therefore DENIES the allegations.

22 **FACTS**

23 25. Defendant is without sufficient information to form a belief as to the truth or
24 falsity of the allegations in paragraph 25, and therefore DENIES the allegations.

25 26. Defendant is without sufficient information to form a belief as to the truth or
26 falsity of the allegations in paragraph 26, and therefore DENIES the allegations.

1 27. Answering paragraph 27, the allegations are not directed at Defendant, therefore
2 no response is required of this answering Defendant. To the extent paragraph 27 may be
3 construed as making factual allegations as to this Defendant, the allegations are DENIED.

4 28. Answering paragraph 28, the allegations are not directed at Defendant, therefore
5 no response is required of this answering Defendant. To the extent paragraph 28 may be
6 construed as making factual allegations as to this Defendant, Defendant is without sufficient
7 information to form a belief as to the truth or falsity of the allegations in paragraph 28, and
8 therefore DENIES the allegations.

9 29. Answering paragraph 29, the allegations are not directed at Defendant, therefore
10 no response is required of this answering Defendant. To the extent paragraph 29 may be
11 construed as making factual allegations as to this Defendant, Defendant is without sufficient
12 information to form a belief as to the truth or falsity of the allegations in paragraph 29, and
13 therefore DENIES the allegations.

14 30. Answering paragraph 30, the allegations are not directed at Defendant, therefore
15 no response is required of this answering Defendant. To the extent paragraph 30 may be
16 construed as making factual allegations as to this Defendant, Defendant is without sufficient
17 information to form a belief as to the truth or falsity of the allegations in paragraph 30, and
18 therefore DENIES the allegations.

19 31. Answering paragraph 31, the allegations are not directed at Defendant, therefore
20 no response is required of this answering Defendant. To the extent paragraph 31 may be
21 construed as making factual allegations as to this Defendant, Defendant is without sufficient
22 information to form a belief as to the truth or falsity of the allegations in paragraph 31, and
23 therefore DENIES the allegations.

24 32. Answering paragraph 32, the allegations are not directed at Defendant, therefore
25 no response is required of this answering Defendant. To the extent paragraph 32 may be
26 construed as making factual allegations as to this Defendant, Defendant is without sufficient

1 information to form a belief as to the truth or falsity of the allegations in paragraph 32, and
2 therefore DENIES the allegations.

3 33. Answering paragraph 33, the allegations are not directed at Defendant, therefore
4 no response is required of this answering Defendant. To the extent paragraph 33 may be
5 construed as making factual allegations as to this Defendant, Defendant is without sufficient
6 information to form a belief as to the truth or falsity of the allegations in paragraph 33, and
7 therefore DENIES the allegations.

8 34. Answering paragraph 34, the allegations are not directed at Defendant, therefore
9 no response is required of this answering Defendant. To the extent paragraph 34 may be
10 construed as making factual allegations as to this Defendant, Defendant is without sufficient
11 information to form a belief as to the truth or falsity of the allegations in paragraph 34, and
12 therefore DENIES the allegations.

13 35. Answering paragraph 35, Defendant DENIES the allegations.

14 36. Answering paragraph 36, Defendant avers that Plaintiff did not complain to him
15 that she was being subjected to sexual harassment or sexual misconduct, ADMITS that he took
16 prompt and appropriate action relative to complaints Plaintiff did make to him, and further
17 ADMITS that he relayed Plaintiff's complaints to Sgt. Williams as appropriate. Defendant is
18 without sufficient information to form a belief as to the truth or falsity of the remaining
19 allegations in paragraph 36, and therefore DENIES the allegations. To the extent not expressly
20 admitted, the allegations in paragraph 36 are DENIED.

21 37. Answering paragraph 37, the allegations are DENIED.

22 38. Answering paragraph 38, the allegations are not directed at Defendant, therefore
23 no response is required of this answering Defendant. To the extent paragraph 38 may be
24 construed as making factual allegations as to this Defendant, Defendant is without sufficient
25 information to form a belief as to the truth or falsity of the allegations in paragraph 38, and
26 therefore DENIES the allegations.

1 39. Answering paragraph 39, the allegations are not directed at Defendant, therefore
2 no response is required of this answering Defendant. To the extent paragraph 39 may be
3 construed as making factual allegations as to this Defendant, Defendant is without sufficient
4 information to form a belief as to the truth or falsity of the allegations in paragraph 39, and
5 therefore DENIES the allegations.

6 40. Answering paragraph 40, the allegations are not directed at Defendant, therefore
7 no response is required of this answering Defendant. To the extent paragraph 40 may be
8 construed as making factual allegations as to this Defendant, Defendant is without sufficient
9 information to form a belief as to the truth or falsity of the allegations in paragraph 40, and
10 therefore DENIES the allegations.

11 41. Answering paragraph 41, the allegations are not directed at Defendant, therefore
12 no response is required of this answering Defendant. To the extent paragraph 41 may be
13 construed as making factual allegations as to this Defendant, Defendant is without sufficient
14 information to form a belief as to the truth or falsity of the allegations in paragraph 41, and
15 therefore DENIES the allegations.

16 42. Answering paragraph 42, the allegations are not directed at Defendant, therefore
17 no response is required of this answering Defendant. To the extent paragraph 42 may be
18 construed as making factual allegations as to this Defendant, Defendant is without sufficient
19 information to form a belief as to the truth or falsity of the allegations in paragraph 42, and
20 therefore DENIES the allegations.

21 43. Answering paragraph 43, the allegations are not directed at Defendant, therefore
22 no response is required of this answering Defendant. To the extent paragraph 43 may be
23 construed as making factual allegations as to this Defendant, Defendant is without sufficient
24 information to form a belief as to the truth or falsity of the allegations in paragraph 43, and
25 therefore DENIES the allegations.
26

1 44. Answering paragraph 44, the allegations are not directed at Defendant, therefore
 2 no response is required of this answering Defendant. To the extent paragraph 44 may be
 3 construed as making factual allegations as to this Defendant, the allegations are DENIED.

4 45. Answering paragraph 45, Defendant DENIES the allegations.

5 46. Answering paragraph 46, Defendant DENIES the allegations.

6 47. Answering paragraph 47, the allegations are not directed at Defendant, therefore
 7 no response is required of this answering Defendant. To the extent paragraph 47 may be
 8 construed as making factual allegations as to this Defendant, the allegations are DENIED.

9 48. Answering paragraph 48, the allegations are not directed at Defendant, therefore
 10 no response is required of this answering Defendant. To the extent paragraph 48 may be
 11 construed as making factual allegations as to this Defendant, the allegations are DENIED.

12 49. Answering paragraph 49, the allegations are not directed at Defendant, therefore
 13 no response is required of this answering Defendant. To the extent paragraph 49 may be
 14 construed as making factual allegations as to this Defendant, the allegations are DENIED.

15 50. Answering paragraph 50, the allegations are not directed at Defendant, therefore
 16 no response is required of this answering Defendant. To the extent paragraph 50 may be
 17 construed as making factual allegations as to this Defendant, the allegations are DENIED.

18 51. Answering paragraph 51, the allegations are not directed at Defendant, therefore
 19 no response is required of this answering Defendant. To the extent paragraph 51 may be
 20 construed as making factual allegations as to this Defendant, Defendant is without sufficient
 21 information to form a belief as to the truth or falsity of the allegations in paragraph **51**, and
 22 therefore DENIES the allegations.

23 52. Answering paragraph 52, the allegations are not directed at Defendant, therefore
 24 no response is required of this answering Defendant. To the extent paragraph 52 may be
 25 construed as making factual allegations as to this Defendant, the allegations are DENIED.
 26

53. Answering paragraph 53, the allegations are not directed at Defendant, therefore no response is required of this answering Defendant. To the extent paragraph 53 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

54. Answering paragraph 54, the allegations are not directed at Defendant, therefore no response is required of this answering Defendant. To the extent paragraph 54 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

FIRST CAUSE OF ACTION

DEPRIVATION OF CONSTITUTIONAL RIGHTS – FIRST/EIGHTH/FOURTEENTH AMENDMENTS – *State-Created Danger* – 42 U.S.C. Section 1983 (Against All Defendants)

55. Defendant hereby incorporates and realleges all answers to all preceding paragraphs as though fully incorporated herein and further answers that all allegations not expressly admitted are DENIED.

56. Answering paragraph 56, this paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph 55 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

57. Answering paragraph 57, the allegations are DENIED.

58. Answering paragraph 58, the allegations are DENIED.

59. Answering paragraph 59, the allegations are DENIED.

SECOND CAUSE OF ACTION

DEPRIVATION OF CONSTITUTIONAL RIGHTS – FIRST/EIGHTH/FOURTEENTH AMENDMENTS – *Deliberate Indifference* – 42 U.S.C. Section 1983 (Against All Defendants)

60. Defendant hereby incorporates and realleges all answers to all preceding paragraphs as though fully incorporated herein and further answers that all allegations not expressly admitted are DENIED.

61. Answering paragraph 61, this paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph 61 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

62. Answering paragraph 62, the allegations are DENIED.

63. Answering paragraph 63, the allegations are DENIED.

64. Answering paragraph 64, the allegations are DENIED.

THIRD CAUSE OF ACTION

DEPRIVATION OF CONSTITUTIONAL RIGHTS – FIRST/EIGHTH/FOURTEENTH AMENDMENTS – *Conspiracy* – 42 U.S.C. Section 1983 (Against All Defendants)

65. Defendant hereby incorporates and realleges all answers to all preceding paragraphs as though fully incorporated herein and further answers that all allegations not expressly admitted are DENIED.

66. Answering paragraph 66, this paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph 66 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

67. Answering paragraph 67, this paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph 67 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

68. Answering paragraph 68, this paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph 68 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

69. Answering paragraph 69, the allegations are DENIED.

70. Answering paragraph 70, the allegations are DENIED.

71. Answering paragraph 71, the allegations are DENIED.

FOURTH CAUSE OF ACTION

**DEPRIVATION OF CONSTITUTIONAL RIGHTS –FOURTEENTH AMENDMENT –
Right to Bodily Privacy – 42 U.S.C. Section 1983
 (Against All Defendants)**

72. Defendant hereby incorporates and realleges all answers to all preceding paragraphs as though fully incorporated herein and further answers that all allegations not expressly admitted are DENIED.

73. Answering paragraph 73, this paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph 73 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

74. Answering paragraph 74, this paragraph sets forth legal conclusions for which no answer is required. To the extent paragraph 74 may be construed as making factual allegations as to this Defendant, the allegations are DENIED.

75. Answering paragraph 75, the allegations are DENIED.

76. Answering paragraph 76, the allegations are DENIED.

77. Answering paragraph 77, the allegations are DENIED.

78. Answering paragraph 78, the allegations are DENIED.

79. Answering paragraph 79, the allegations are DENIED.

DEMAND FOR JURY TRIAL

Plaintiff's jury demand requires no answer of this answering Defendant; to the extent any answer is required, Defendant demands trial by jury.

PRAYER FOR RELIEF

Answering Plaintiff's prayer for relief, including paragraphs A – E, Defendant DENIES plaintiff is entitled to the relief requested or to any relief whatsoever.

DEFENDANT'S AFFIRMATIVE DEFENSES

By Way of FURTHER ANSWER and FIRST AFFIRMATIVE DEFENSE, Defendant alleges that the Plaintiff has failed to state a claim upon which relief may be granted.

1 By Way of FURTHER ANSWER and SECOND AFFIRMATIVE DEFENSE, Defendant
 2 alleges that Plaintiff's action against this Defendant is barred by the doctrine of res judicata and/or
 3 collateral estoppel.

4 By Way of FURTHER ANSWER and THIRD AFFIRMATIVE DEFENSE, Defendant
 5 alleges that Plaintiff has failed to exhaust administrative remedies or Plaintiff's remedy is
 6 administrative rather than judicial and therefore the action will not lie.

7 By Way of FURTHER ANSWER and FOURTH AFFIRMATIVE DEFENSE, Defendant
 8 alleges that the damages and/or injuries, if any, were caused by the fault of a nonparty. The identity
 9 of this nonparty is currently unknown to the Defendant.

10 By Way of FURTHER ANSWER and FIFTH AFFIRMATIVE DEFENSE, Defendant
 11 alleges that the Plaintiff's injuries/damages, if any, were caused by intentional conduct of
 12 incarcerated individual Williams. The damages caused by the intentional conduct must be
 13 segregated from injuries/damages allegedly caused by fault.

14 By Way of FURTHER ANSWER and SIXTH AFFIRMATIVE DEFENSE, Defendant
 15 alleges that the injuries and damages, if any, claimed by the Plaintiff were proximately caused or
 16 contributed to by the fault of Plaintiff.

17 By Way of FURTHER ANSWER and SEVENTH AFFIRMATIVE DEFENSE, Defendant
 18 alleges that the Defendant at all times acted in good faith in the performance of his duties and is
 19 therefore immune from suit for the matters charged in Plaintiff's complaint.

20 By Way of FURTHER ANSWER and EIGHTH AFFIRMATIVE DEFENSE, Defendant
 21 alleges that if the Plaintiff suffered any damages, recovery therefor is barred by Plaintiff's failure to
 22 mitigate said damages.

23 By Way of FURTHER ANSWER and NINTH AFFIRMATIVE DEFENSE, Defendant
 24 alleges that this action should be dismissed pursuant to the *Younger* abstention doctrine.
 25
 26

1 By Way of FURTHER ANSWER and TENTH AFFIRMATIVE DEFENSE, Defendant
 2 alleges that agents of the Defendant State of Washington are not subject to civil suit for damages
 3 under the Eleventh Amendment of the Constitution of the United States.

4 By Way of FURTHER ANSWER and ELEVENTH AFFIRMATIVE DEFENSE,
 5 Defendant alleges that the claims alleged under 42 U.S.C. § 1983 are barred by the doctrine of
 6 qualified immunity.

7 By Way of FURTHER ANSWER and TWELFTH AFFIRMATIVE DEFENSE, Defendant
 8 alleges that Plaintiff's claims are barred to the extent that there was no causal connection between
 9 the events alleged in Plaintiff's Complaint and any damages allegedly suffered.

10 By Way of FURTHER ANSWER and THIRTEENTH AFFIRMATIVE DEFENSE,
 11 Defendant alleges Plaintiff's claims are barred by the doctrine of claim splitting.

12 **RESERVATION OF RIGHTS**

13 Defendant reserves the right to amend this Answer to include additional affirmative
 14 defenses that may come to light during the course of investigation or discovery.

15 **DEFENDANT'S PRAYER FOR RELIEF**

16 WHEREFORE, having answered Plaintiff's Complaint, Defendant prays that Plaintiff's
 17 complaint be dismissed with prejudice, that Plaintiff take nothing by her complaint, that Defendant
 18 be allowed costs and reasonable attorney fees herein, that any judgment against Defendant be
 19 reduced by the fault of Plaintiff, and other and further relief as the Court deems just and equitable.

20 DATED this 19th day of March, 2025.

21 NICHOLAS W. BROWN
 22 Attorney General

23 /s/ Chad Arceneaux
 24 CHAD EVERETT ARCENEAUX
 25 WSBA No. 40442; OID No. 91105
 26 Assistant Attorney General
 Attorney for Theresa Ayotte and
 Michael Brooks

DECLARATION OF SERVICE

I declare that on this 19th day of March 2025 I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 19th day of March 2025.

NICHOLAS W. BROWN
Attorney General

/s/ Chad Arceneaux
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